

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

DAWN BILLER

Plaintiff,

VS.

MICHAEL ASTRUE,  
Commissioner of Social Security

Defendant.

CASE NO. 1:09-CV-01763

OPINION & ORDER  
[Resolving Doc. No. [31](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

In this Social Security case, Plaintiff Dawn Biller files motion for an award of attorney’s fees under the Equal Access to Justice Act, [28 U.S.C. § 2412](#), in the amount of \$5,545.63, payable directly to her counsel. [[Doc. 31](#).] The government concedes that Plaintiff Biller is entitled to an award of fees and does not contest the requested amount of fees. [[Doc. 32](#).] The Court agrees with the parties that Plaintiff Biller is entitled to an award under that statute and **GRANTS** the Plaintiff’s motion for fees. <sup>1/</sup>

Although not disputing the amount or entitlement to fees, the government does, however,

<sup>1/</sup> Section 204(d) of the Equal Access to Justice Act (EAJA), codified in 28 U.S.C. § 2412(d), provides that “a court shall award to a prevailing party ... fees and other expenses . . . in any civil action . . . brought by or against the United States . . . unless the court finds that the position of the United States was substantially justified.” [28 U.S.C. § 2412](#).

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request that the Court not order payment directly to the Plaintiff's counsel, but rather, order payment to the litigant under the recent United States Supreme Court authority of [\*Astrue v. Ratliff\*, 130 S. Ct. 2521 \(2010\)](#). [[Doc. 32](#).] In that decision, the Supreme Court held that attorney's fees awarded under the Equal Access to Justice Act belong to the Plaintiff and that any fees awarded should be made payable directly to the Plaintiff, rather than his or her counsel. [Id. at 2527](#). As such, the award of fees may be offset by an existing debt to the government. [Id. at 2527](#). The government correctly describes that decision in their filing and the Court **GRANTS** the government's request that the award of fees be made payable to Plaintiff Biller, and not her attorney.

IT IS SO ORDERED.

Dated: February 18, 2011

s/ James S. Gwin  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE